

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUAN CARLOS ZAMBRANO,

Plaintiff,

v.

ERIC GOLDING, et al.,

Defendants.

Case No. [19-cv-03332-HSG](#)

**ORDER DISMISSING DEFENDANT
ELISE WILLIAMS**

On June 12, 2019, plaintiff, an inmate at Pelican Bay State Prison (“PBSP”), filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On August 27, 2019, the Court found that the amended complaint stated a cognizable Eighth Amendment claim against RN Amy Olsen, PA Laurie Thomas, RN Jasmine Yang, Dr. Elise Williams, CNA Kathrine Blakeley, RN John Kim, RN Rhoda Nasr, PA Devinder Kumar and RN Eric Golding. Dkt. No. 16. The Court ordered the Clerk to issue summons, and the United States Marshal to serve, these defendants. Dkt. No. 16.


On March 4, 2020, the United States Marshal filed with the Court the unexecuted summons for Dr. Williams, stating that service upon Dr. Williams was unsuccessful because she is deceased. Dkt. No. 30. A party cannot sue a dead person, or otherwise make a dead person party to a federal lawsuit. *LN Management, LLC v. JPMorgan Chase Bank, N.A.*, 957 F.3d 943, 955 (9th Cir. 2020).¹ Accordingly, defendant Williams is DISMISSED from this action.

¹ It is unclear if plaintiff may name Dr. Williams’ estate as a defendant in lieu of Dr. Williams. Fed. R. Civ. P. 25(a)(1) provides that if a party dies and the claim is not extinguished, any party may make a motion for substitution of the proper party. Fed. R. Civ. P. 25(a)(1). However, it is unclear whether Dr. Williams died before or after the commencement of the action, and the Ninth Circuit has declined to resolve the question of “[w]hether or not substitution ought to be allowed, [where] the party ha[s] been dead ab initio,” i.e. from the beginning of the suit. *LN Management,*

The Clerk is directed to terminate defendant Williams from this action.

IT IS SO ORDERED.

Dated: 7/2/2020


HAYWOOD S. GILLIAM, JR.
United States District Judge

United States District Court
Northern District of California

LLC, 957 F.3d at 955.